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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,374	09/08/2000	Michael D. Peterson	NFTIN-9	3566

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/658,374

Applicant(s)

PETERSON ET AL.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flange portion fixed to the wall of the enclosure (of claim 10) and support arrangement preventing movement of the filter toward the second opening (of claim 3) must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 1 is objected to because of the following informalities: "an alloy having resisting corrosion" in lines 8-9 is awkward and a comma should be inserted after "environment" in line 8. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 3-6 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim limitations of the support arrangement

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preventing movement of the filter toward the second opening is contradictory to the disclosure in the specification and the drawings. Thus, there is no disclosure for the claimed subject matter.

5. Claims 3-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

Claim 3 recites the limitation "the filter media" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the axially extending portion of the housing is cylindrical" in lines 1-2. This is redundant since the same phrase is found in claim 4 (from which it depends).

The metes and bounds of the claims are not clearly defined since a contradiction exists within the body of the claims of whether the subcombination of the enclosure vent only or the combination of the enclosure vent and the enclosure and the material contained therein is being claimed. For instance, in the preamble of the claims, the enclosure vent is set forth as being the claimed invention. However, in claim 10, lines 2-3, for instance, the limitation of "the enclosure has a stainless steel wall" is set forth, while in claim 13 the corrosion rate of various materials is set forth. Because of these positive recitations to the enclosure and the materials contained therein, the claims are considered to be drawn to the combination. If applicant intends to only claim the enclosure vent, the claim language should be amended to so reflect this intention.

Claim 1 sets forth "a second opening adapted to communicate with the surrounding environment". Claim 3 sets forth "a support arrangement within the chamber for preventing axial movement of the filter media through the second opening of the housing". The drawings show the support arrangement limits movement toward the first opening in communication with the enclosure.

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The structure and structural relationships between the parts of the enclosure vent are not clearly set forth in claim 7. What is the relationship between the radially extending flange and the annular shoulder?

Claim 10 recites the limitation "the wall" in line 2. There is insufficient antecedent basis for this limitation in the claim since more than one wall has been previously set forth.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brassell et al. (4,500,328) in view of Felbaum et al. (US 6,041,669).

Brassell teaches an enclosure vent comprising a housing 1 having first and second openings and a unitary filter element, by applicant's disclosure, providing the claimed hydrogen permeability, a radially extending flange and an annular shoulder (the lower end of the vent) for supporting the filter media. Brassell is silent regarding the material of the housing.

Felbaum teaches an enclosure vent 36 formed of a corrosion-resistant alloy (column 9, lines 6-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a corrosion-resistant alloy to the enclosure vent housing of Brassell. Doing so would ensure the integrity of the enclosure vent for a long period of time.

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8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 7 above, and further in view of Carpinella (US 5,686,700).

Brassell as modified teaches the claimed enclosure vent except for a shelf for receiving the lid in a press fit.

Carpinella teaches a closure having a shelf **44** for receiving a lid **24** in a press fit within the housing wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a shelf for receiving the lid in press fit arrangement within the housing wall. Doing so would allow for a smooth upper surface of the housing.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 8 above, and further in view of Seibert et al. (US 5,353,949).

Brassell teaches the claimed enclosure vent except a gasket disposed adjacent the flange portion.

Seibert teaches an enclosure vent having the gasket disposed adjacent the flange portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a gasket disposed adjacent the flange portion of Brassell. Doing so would seal the opening between the enclosure vent and the associated enclosure as is well known in the art.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 8 above, and further in view of Ward (US 4,231,488).

Brassell as modified teaches the claimed enclosure vent except for the flange portion being fixed to the wall by a weld.

Ward teaches it is known to secure a closure to a wall of an enclosure.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of fixing the flange portion of the modified enclosure vent of Brassell to an enclosure wall. Doing so is a well-known method of securing a closure to an enclosure in the container art.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 9 above, and further in view of Ward.

Brassell as modified teaches the claimed enclosure vent securing enclosure vent to the enclosure lid by a weld.

Ward teaches it is known to secure a closure to a wall of an enclosure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of fixing the flange portion of the modified enclosure vent of Brassell to an enclosure lid. Doing so is a well-known method of securing a closure to an enclosure in the container art.

12. Claims 1-7, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brassell et al. (US 6,041,669) in view of Brassell '328 and Felbaum.

Brassell '669 teaches a vent enclosure having an enclosure vent. The disclosed enclosure vent does not have the structure of that claimed and is silent regarding the material of the housing.

Brassell '328 teaches an enclosure vent comprising a housing 1 having first and second openings and a unitary filter element

Felbaum teaches an enclosure vent 36 formed of a corrosion-resistant alloy (column 9, lines 6-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply substitute the enclosure vent of Brassell '328 for the enclosure vent of Brassell

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'669 and to utilize a corrosion-resistant alloy to form the enclosure vent. Doing so would ensure the integrity of the enclosure vent for a long period of time and provide an enclosure vent that prohibits release of pollutants into the atmosphere.

Regarding claim 12, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the corrosion rate of the alloy to be no greater than 2 mils per year under the specified conditions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the corrosion rate of the various chemical compounds set forth in the claim, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 7 above, and further in view of Carpinella.

Brassell '669 as modified teaches the claimed enclosure vent except for a shelf for receiving the lid in a press fit.

Carpinella teaches a closure having a shelf **44** for receiving a lid **24** in a press fit within the housing wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a shelf for receiving the lid in press fit arrangement within the housing wall. Doing so would allow for a smooth upper surface of the housing.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 8 above, and further in view of Seibert.

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Brassell '669 teaches the claimed enclosure vent except a gasket disposed adjacent the flange portion.

Seibert teaches an enclosure vent having the gasket disposed adjacent the flange portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a gasket disposed adjacent the flange portion of Brassell '669. Doing so would seal the opening between the enclosure vent and the lid opening as is well known in the art.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 8 above, and further in view of Ward (US 4,231,488).

Brassell '669 as modified teaches the claimed enclosure vent except for the flange portion being fixed to the wall by a weld.

Ward teaches it is known to secure a closure to a wall of an enclosure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of fixing the flange portion of the modified enclosure vent of Brassell '669 to an enclosure wall. Doing so is a well-known method of securing a closure to an enclosure in the container art.

16. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 9 above, and further in view of Ward.

Brassell '669 as modified teaches the claimed enclosure vent securing enclosure vent to the enclosure lid by a weld.

Ward teaches it is known to secure a closure to a wall of an enclosure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of fixing the flange portion of the modified enclosure vent of

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Brassell '669 to an enclosure lid. Doing so is a well-known method of securing a closure to an enclosure in the container art.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various venting closures are cited for their inherent disclosures.

18. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

19. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 305-3579 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 10:00 a.m. to 5:30 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

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If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
May 17, 2002


Robin A. Hylton
Patent Examiner
GAU 3727